

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 212

Introduced by Assembly Member Lowenthal

January 31, 2013

An act to amend Sections 1513.5, ~~1520~~, and 1530 of the Code of Civil Procedure, relating to unclaimed property.

LEGISLATIVE COUNSEL'S DIGEST

AB 212, as amended, Lowenthal. Unclaimed property.

The Unclaimed Property Law (UPL) specifies the circumstances under which unclaimed personal property held by a banking or financial institution, business association, or other holder of personal property escheats to the state. The UPL requires a banking or financial organization, if it has in its records an address for the apparent owner, which the records do not disclose to be inaccurate, to make reasonable efforts to notify by mail any customer that the customer's deposit, account, shares, or other interest in the banking or financial organization will escheat to the state, as specified. ~~The UPL provides an exception from this notice requirement for deposits, accounts, shares, or other interests of less than \$50.~~ The UPL authorizes a banking or financial organization to impose a service charge for the notice on the deposit, account, shares, or other interest in an amount up to \$2 but not exceeding the administrative cost of mailing or electronically sending the notice, but prohibits a banking or financial institution from imposing a service charge for notice on items of less than \$50. The UPL requires every person holding funds or other property that escheated to the state to submit a report to the Controller that includes, among other items, the name and last known address of each person appearing to be the owner

of any property, *except traveler's checks and money orders*, worth at least \$50 that escheated to the state and, for items worth less than \$50, the nature and identifying number, if any, or description of any intangible property reported in aggregate. *The UPL requires that the report be filed before November 1 of each year, except with regard to the report of life insurance corporations and of all insurance corporation demutualization proceeds subject to a specified statute, in which case the UPL requires that the report be filed before May 1 of each year.*

~~This bill would delete the notice exception for a deposit, account, shares, and other interest of less than \$50, thereby requiring a banking or financial institution to make reasonable efforts to notify the customer regardless of the value of the interest. The bill would authorize a banking or financial institution to impose a service charge for notice if the deposit, account, shares, or other interest has a value greater than \$2. The bill would require a person holding funds or other property escheated to the state to include in its report to the Controller the name and last known address of each person appearing to be the owner of any property escheated to the state, regardless of its value., beginning July 1, 2014, require a person holding escheated property to include in his or her report to the Controller the name and last known address of the apparent owner of any escheated property, except travelers checks and money orders, worth at least \$25. The bill would allow the holder to report information regarding escheated items worth less than \$50 in aggregate if the name of the owner is not known and there is no last known address in the records of the holder. The bill also would make conforming changes. The bill would authorize a banking or financial institution to impose a service charge for notice if the deposit, account, shares, or other interest has a value greater than \$2.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1513.5 of the Code of Civil Procedure
- 2 is amended to read:
- 3 1513.5. (a) ~~If~~ *Except as provided in subdivision (c), if the*
- 4 holder has in its records an address for the apparent owner, which
- 5 the holder's records do not disclose to be inaccurate, every banking
- 6 or financial organization shall make reasonable efforts to notify

any owner by mail or, if the owner has consented to electronic notice, electronically, that the owner's deposit, account, shares, or other interest in the banking or financial organization will escheat to the state pursuant to clause (i), (ii), or (iii) of subparagraph (A) of paragraph (1), (2), or (6) of subdivision (a) of Section 1513. The holder shall give notice either:

(1) Not less than two years nor more than two and one-half years after the date of last activity by, or communication with, the owner with respect to the account, deposit, shares, or other interest, as shown on the record of the banking or financial organization.

(2) Not less than 6 nor more than 12 months before the time the account, deposit, shares, or other interest becomes reportable to the Controller in accordance with this chapter.

(b) The notice required by this section shall specify the time that the deposit, account, shares, or other interest will escheat and the effects of escheat, including the necessity for filing a claim for the return of the deposit, account, shares, or other interest. The face of the notice shall contain a heading at the top that reads as follows: "THE STATE OF CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE STATE IF YOU DO NOT CONTACT US," or substantially similar language. The notice required by this section shall, in boldface type or in a font a minimum of two points larger than the rest of the notice, exclusive of the heading, (1) specify that since the date of last activity, or for the last two years, there has been no owner activity on the deposit, account, shares, or other interest; (2) identify the deposit, account, shares, or other interest by number or identifier, which need not exceed four digits; (3) indicate that the deposit, account, shares, or other interest is in danger of escheating to the state; and (4) specify that the Unclaimed Property Law requires banking and financial organizations to transfer funds of a deposit, account, shares, or other interest if it has been inactive for three years. It shall also include a form, as prescribed by the Controller, by which the owner may declare an intention to maintain the deposit, account, shares, or other interest. If that form is filled out, signed by the owner, and returned to the banking or financial organization, it shall satisfy the requirement of clause (iii) of subparagraph (A) of paragraph (1), clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of subparagraph (A) of paragraph (6) of subdivision

(a) of Section 1513. In lieu of returning the form, the banking or financial organization may provide a telephone number or other electronic means to enable the owner to contact that organization. The contact, as evidenced by a memorandum or other record on file with the banking or financial organization, shall satisfy the requirement of clause (iii) of subparagraph (A) of paragraph (1), clause (iii) of subparagraph (A) of paragraph (2), or clause (iii) of subparagraph (A) of paragraph (6) of subdivision (a) of Section 1513. If the deposit, account, shares, or other interest has a value greater than two dollars (\$2), the banking or financial organization may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed the administrative cost of mailing or electronically sending the notice and form and in no case to exceed two dollars (\$2).

(c) Notice as provided by subdivisions (a) and (b) shall not be required for deposits, accounts, shares, or other interests of less than fifty dollars (\$50), and, except as provided in subdivision (b), no service charge may be made for notice on these items.

~~(e)~~

(d) In addition to the notices required pursuant to subdivision (a), the holder may give additional notice as described in subdivision (b) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the deposit, account, shares, or other interest to the Controller.

~~(d)~~

(e) At the time a new account is opened with a banking or financial organization, the organization shall provide a written notice to the person opening the account informing the person that his or her property may be transferred to the appropriate state if no activity occurs in the account within the time period specified by state law. If the person opening the account has consented to electronic notice, that notice may be provided electronically.

~~SEC. 2. Section 1520 of the Code of Civil Procedure is amended to read:~~

~~1520. (a) All tangible personal property located in this state and, subject to Section 1510, all intangible personal property, except property of the classes mentioned in Sections 1511, 1513, 1514, 1515, 1515.5, 1516, 1517, 1518, 1519, and 1521, including any income or increment thereon and deducting any lawful charges, that is held or owing in the ordinary course of the holder's business~~

1 and has remained unclaimed by the owner for more than three
2 years after it became payable or distributable escheats to this state.

3 (b) Except as provided in subdivision (a) of Section 1513.5,
4 subdivision (b) of Section 1514, and subdivision (d) of Section
5 1516, if the holder has in its records an address for the apparent
6 owner, which the holder's records do not disclose to be inaccurate,
7 the holder shall make reasonable efforts to notify the owner by
8 mail or, if the owner has consented to electronic notice,
9 electronically, that the owner's property will escheat to the state
10 pursuant to this chapter. The notice shall be mailed not less than
11 6 nor more than 12 months before the time when the owner's
12 property held by the business becomes reportable to the Controller
13 in accordance with this chapter. The face of the notice shall contain
14 a heading at the top that reads as follows: "THE STATE OF
15 CALIFORNIA REQUIRES US TO NOTIFY YOU THAT YOUR
16 UNCLAIMED PROPERTY MAY BE TRANSFERRED TO THE
17 STATE IF YOU DO NOT CONTACT US," or substantially similar
18 language. The notice required by this subdivision shall specify the
19 time when the property will escheat and the effects of escheat,
20 including the need to file a claim in order for the owner's property
21 to be returned to the owner. The notice required by this section
22 shall, in boldface type or in a font a minimum of two points larger
23 than the rest of the notice, exclusive of the heading, (1) specify
24 that since the date of last activity, or for the last two years, there
25 has been no owner activity on the deposit, account, shares, or other
26 interest; (2) identify the deposit, account, shares, or other interest
27 by number or identifier, which need not exceed four digits; (3)
28 indicate that the deposit, account, shares, or other interest is in
29 danger of escheating to the state; and (4) specify that the Unclaimed
30 Property Law requires holders to transfer funds of a deposit,
31 account, shares, or other interest if it has been inactive for three
32 years. It shall also include a form, as prescribed by the Controller,
33 by which the owner may confirm the owner's current address. If
34 that form is filled out, signed by the owner, and returned to the
35 holder, it shall be deemed that the account, or other device in which
36 the owner's property is being held, remains currently active and
37 recommences the escheat period. In lieu of returning the form, the
38 holder may provide a telephone number or other electronic means
39 to enable the owner to contact the holder. With that contact, as
40 evidenced by a memorandum or other record on file with the

holder, the account or other device in which the owner's property is being held shall be deemed to remain currently active and shall recommence the escheat period. The holder may impose a service charge on the deposit, account, shares, or other interest for this notice in an amount not to exceed the administrative cost of mailing or electronically sending the notice and form, and in no case to exceed two dollars (\$2).

(c) In addition to the notice required pursuant to subdivision (b), the holder may give additional notice as described in subdivision (b) at any time between the date of last activity by, or communication with, the owner and the date the holder transfers the property to the Controller.

(d) For purposes of this section, "lawful charges" means charges which are specifically authorized by statute, other than this chapter, or by a valid, enforceable contract.

SEC. 3.

SEC. 2. Section 1530 of the Code of Civil Procedure is amended to read:

1530. (a) Every person holding funds or other property escheated to this state under this chapter shall report to the Controller as provided in this section.

(b) The report shall be on a form prescribed or approved by the Controller and shall include:

(1) Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of at least fifty dollars (\$50) escheated under this chapter. *This paragraph shall become inoperative on July 1, 2014.*

(2) *Except with respect to traveler's checks and money orders, the name, if known, and last known address, if any, of each person appearing from the records of the holder to be the owner of any property of value of at least twenty-five dollars (\$25) escheated under this chapter. This paragraph shall become operative on July 1, 2014.*

(3) In the case of escheated funds of life insurance corporations, the full name of the insured or annuitant, and his or her last known address, according to the life insurance corporation's records.

(3)

1 (4) In the case of the contents of a safe deposit box or other
2 safekeeping repository or in the case of other tangible property, a
3 description of the property and the place where it is held and may
4 be inspected by the Controller. The report shall set forth any
5 amounts owing to the holder for unpaid rent or storage charges
6 and for the cost of opening the safe deposit box or other
7 safekeeping repository, if any, in which the property was contained.

8 ~~(4)~~

9 (5) The nature and identifying number, if any, or description of
10 any intangible property and the amount appearing from the records
11 to be due, except that items of value under fifty dollars (\$50) each
12 may be reported in aggregate if the name of the owner is unknown
13 and there is no last known address in the records of the holder.

14 ~~(5)~~

15 (6) Except for any property reported in the aggregate, the date
16 when the property became payable, demandable, or returnable,
17 and the date of the last transaction with the owner with respect to
18 the property.

19 ~~(6)~~

20 (7) Other information which the Controller prescribes by rule
21 as necessary for the administration of this chapter.

22 (c) If the holder is a successor to other persons who previously
23 held the property for the owner, or if the holder has changed his
24 or her name while holding the property, he or she shall file with
25 his or her report all prior known names and addresses of each
26 holder of the property.

27 (d) The report shall be filed before November 1 of each year as
28 of June 30 or fiscal yearend next preceding, but the report of life
29 insurance corporations, and the report of all insurance corporation
30 demutualization proceeds subject to Section 1515.5, shall be filed
31 before May 1 of each year as of December 31 next preceding. The
32 initial report for property subject to Section 1515.5 shall be filed
33 on or before May 1, 2004, with respect to conditions in effect on
34 December 31, 2003, and all property shall be determined to be
35 reportable under Section 1515.5 as if that section were in effect
36 on the date of the insurance company demutualization or related
37 reorganization. The Controller may postpone the reporting date
38 upon his or her own motion or upon written request by any person
39 required to file a report.

1 (e) The report, if made by an individual, shall be verified by the
2 individual; if made by a partnership, by a partner; if made by an
3 unincorporated association or private corporation, by an officer;
4 and if made by a public corporation, by its chief fiscal officer or
5 other employee authorized by the holder.

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